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February 3, 2009

EXHIBIT 1
DATE 3/5/09
SB 299

The Honorable Jim Shockley
Chairman, Senate State Administration Committee
Montana Senate
P.O. Box 200500
Helena, MT 59620-0500

RE: NNA's Strong Support for Senate Bill 299

Dear Senator Shockley:

On behalf of the National Notary Association, a non-profit professional association serving the nearly 5 million Notaries Public of the United States – and the 21,000 Notaries of the state of Montana – we offer our strong support for Senate Bill 299. This important legislation provides a long-needed update to Montana notarial statutes that better equips Notaries to serve as the state's front line of defense against document fraud in this era of proliferating identity theft.

SB 299 mandates training and testing of Notaries, which the increasing complexity and urgency of the Notary's role has made a necessity. The provision that Notaries must maintain a record of each official act within a journal will serve as a strong deterrent to fraud and identity theft – as it does in many states that mandate journals. This requirement will also prevent baseless lawsuits and provide indispensable evidence to law enforcement in prosecuting forgeries and other identity crimes.

We congratulate you for introducing SB 299 and urge its enactment in the interests of the Notaries of Montana and the public they protect from document fraud.

Sincerely,

Timothy S. Reiniger

Timothy S. Reiniger, Esq.
Executive Director

Cc: The Honorable Linda McCulloch, Montana Secretary of State
The Honorable Joe Tropila, State Senate, Montana



United States
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Association

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February 4, 2009

Senator Jim Shockley,
Chairman, Montana State Administration Committee

Dear Senator Shockley:

My name is Marc Aronson and I am the President of the United States Notary Association (USNA)

I am writing to express USNA's support for Senate Bill 299. Specifically, I would like to offer comments on two sections of the bill.


In 1962, our parent company, the Pennsylvania Association of Notaries, provided the first private sector notary public education program in the United States. We are very encouraged to see that Senate Bill 299 would mandate training and education for Montana's notaries public.

We also note that Senate Bill 299 would mandate that notaries public maintain an official journal of all notarial acts. Based on our 54 years of experience in working with notaries public, this is an excellent idea that can be used to relieve a notary from personal liability in a case where his or her negligence is alleged as the cause of a loss.

As to the rest of the legislation, we feel that it will be strongly beneficial for Montana's notaries public. Simply put, Senate Bill 299 would be great for Montana, for the state's notaries and for the public which notaries are appointed to serve.

With this in mind, we look forward to Senate Bill 299 moving out of committee and onto the floor of the House and Senate for swift passage.

For the Association,


Marc Aronson
President

cc: Senator Joe Tropila
Sponsor: Senate Bill 299

The Hon. Linda McCulloch
Secretary of State



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Linda McCulloch
Secretary of State

EXHIBIT
DATE 3/5/09
SB 299

SB299 Notary Publics
House State Administration Room 455
March 5, 2009
Secretary Linda McCulloch Testimony

Chairman Himmelberger and members of the committee, I am Secretary of State Linda McCulloch. Sen. Tropila's SB299 makes some changes in the notary public laws in order to protect both notaries and the public.

Here is the problem: notaries in Montana are not required to receive any training whatsoever before they become a notary. However, by Montana law and by case law, they are legally responsible for their actions. In other words, we commission them to perform very important legal actions with associated legal obligations without assuring they have the knowledge and tools they need.

Across the nation and here in Montana, notaries are increasingly targeted in lawsuits when they do not provide their services properly, and some have been required to pay tens of thousands of dollars in damages, sometimes far in excess of the bond or insurance amounts. This impacts the notaries and the parties who relied on the notaries to perform their duty legally.

So do untrained Montana notaries ever make mistakes? In the documents we see in our office, 58% of the documents notarized by untrained Montana notaries were notarized improperly. This bill will fix that.

Let me walk you through the important parts of the bill very quickly.

On page 1, line 18, the first two changes are (1) to require notaries to take a training program certified by the Secretary of State and (2) to pass a test about the content. Our office offers a free four-hour training course for notaries, but only about 650 have attended the classes in the last two years, out of the 25,000 notaries in Montana. In addition to offering more of our free training courses, we will certify any private trainers as long as they cover all of the relevant material. We hope to certify private sector organizations such as those representing banks, car dealers, schools or community colleges.

The test is a written open book test turned in with the application.

The next change is also on page 1 on line 24. A person will be able to become a notary after 30 days residence in Montana, down from the current 1 year. No other state requires more than 30 days, and many have no residency requirement at all, because they want to encourage people to move to or do business in their state. Lots of businesses require certain employees to become a notary.

On page 2, line 8, the old crimper style stamp will no longer be used, because it doesn't copy or scan well. The Secretary of State will prescribe the exact details so that all notary stamps and seals look very similar. And on line 13, the notary's original signature must be in blue or black ink which is in conformity with the Montana standards for recordable documents.

An important change is on line 21. New subsection (g) requires a notary to keep a journal with certain details of every transaction. This will include the signature of the person for whom the notarization is performed. Court cases in other states have held that keeping a journal is a reasonable "standard of practice," even if that state's laws do not require it. This will protect notaries and the public by providing proof that they have performed the notarization correctly.

A housekeeping matter is on page 3, line 4. This clarifies that it is only the journal or journals that need to be given to the county clerk and recorder when a person stops being a notary for any reason, because these are public records. It is the responsibility of the notary to destroy the notary's official stamp and seal. In the case of death, the person's legal representative will destroy the stamp and seal.

On page 6, section 6, this bill will become law at the usual time, except that the training and test will not become law until July 1, 2010. That will give my office time to certify training programs.

The Montana County Clerks and Recorders are supporting this bill, along with the United States Notary Association, the Montana Notary Association and the Montana Notary Guild. I am very pleased to welcome to Montana Tim Reiniger, the Executive Director of the National Notary Association, here to support Montana's effort to come in line with the current standards of notary practice.

I urge your support of SB299. Thank you for your time this morning.